IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1964 OF 2005

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Mr.Razalli Masoodali Sayyad
and ors. ...Applicants

v/s.

The State of Maharashtra ...Respondents

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Mr.Balkrishna Joshi for the Applicants.

Mr.K.V.Saste, APP for the State.

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CORAM: A.M.KHANWILKAR,J.

DATED: 4TH APRIL,2005

P.C.:

1. Heard counsel for the parties. Perused the record. The Applicant apprehends arrest in connection with offence registered with Pharaskhana Police Station, Pune being C.R.No.23/2005 dated 25-2-2005 punishable under Sections 465, 468, 470, 471, 474, 420 and 120-B of IPC.

2. The substance of the allegation in the said complaint is that the Applicants who are managing committee members of the trust, which incidentally happens to be the owner of certain property had submitted a proposal for development of the said property. the documents so submitted are forged documents. The Applicants had submitted the proposal for development of CTS No.1279 at Kasaba Peth on 4-2-2004. It is seen from the record that the Applicants were informed that there were some defects in the said proposal. That communication is dated 21st July, 2004. The managing committee of the trust immediately has taken the matter before the revisional authority and the revisional authority on

4th August, 2004 has stayed the proposed action contemplated by the office of the City Survey Officer, in respect of proposal submitted by the trust. Besides the stay granted by the revisional authority, the Applicants have also given in writing on 12th August, 2004 to the concerned authority that they shall not act upon the original proposal submitted by them in view of some defects noted therein. It is not in dispute that thereafter the said proceedings have not progressed. However, after lapse of some time the present offence has been registered in February, 2005 on the allegation that the Applicants who are the managing committee members of the said trust were responsible for forgery of certain documents namely the property card, architect certificate etc. which were submitted alongwith the proposal.

. In so far as the property card relied upon by the Applicants is concerned, same is placed on record alongwith the affidavit filed on behalf of the Respondents. The copy produced alongwith the affidavit appears to be a zerox copy of the certified copy issued by the office of the City Survey Officer on the application made on behalf of the Trust. It

bears the outward No. as also the date on which the copy was prepared including the signature of the Head clerk. The argument on behalf of the prosecution, however, is that the area indicated in this property card certificate is much more than the actual area of the plot. The proposal which has been given on behalf of the trust is founded on the area mentioned in this certificate. However, no investigation has been made as to who has initialled the property card certificate of which the certified copy was issued to the Applicants. To over come this position the learned APP relied on the statement of Mr.Rajendra Gole, an officer who is working in the said City Survey Office dated 24th March, 2005. He has only denied that such certificate has been issued under the outward No. referred to therein. As mentioned earlier, no investigation has been made to clearly establish the fact that such certificate has not been issued by the office of the City Survey Department.

. It is then argued by the learned APP that the Applicants have relied on a certificate issued by the Architect dated 4-2-2004. However, the said Architect has denied having issued such certificate. The fact remains that as soon as the defects were

brought to the notice of the Applicants, who are the managing committee members of the Trust, they not only challenged the proposed action of the authority before the revisional authority and succeeded in getting stay of further proceedings, but they also gave in writing to the authority not to act upon their original proposal as submitted on behalf of the trust. That position is not in dispute. If it is so, it is clear that the present criminal action is being pursued to presecute the Applicants at the instance of the rival group of the Trust, which came to be registered as recently on 25-2-2005.

3. Taking overall view of the matter, the Applicants deserve to be enlarged on anticipatory bail on following conditions:

(i) The Applicants are granted anticipatory bail in connection with C.R.No.23/2005 registered with Pharaskhana Police Station on executing personal bond in the sum of Rs.15,000/- each with two local sureties in the like amount.

(ii) The Applicants shall report to the concerned police station as and when called upon for the purpose of investigation in the present case.

(iii) The Applicants shall not influence the prosecution witnesses and/or tamper with the evidence in any manner whatsoever.

(iv) This order will enure in favour of the Applicants till filing of the charge sheet.

Application disposed of on the above terms.

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